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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,529	06/23/2003	Joseph Harold Steinmetz	35022.001C1	8158
34395	7590	02/10/2006	EXAMINER	
OLYMPIC PATENT WORKS PLLC P.O. BOX 4277 SEATTLE, WA 98104			ART UNIT	PAPER NUMBER

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 10/602,529	Applicant(s) STEINMETZ ET AL.	
	Examiner Tanh Q. Nguyen	Art Unit 2182	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 11/18/05 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

There is no reference to the specification by page and line number and to the drawings, if any, by reference characters in the explanation of the subject matter defined in each of the independent claims involved in the appeal.

Appellant merely points to FIG. 15 and FIGs. 14A-B, without reference characters to the elements claimed, with respect to each of the independent claims involved in the appeal (claims 1, 9, and 30).

Appellant addressed objections to the drawings on the "STATUS OF AMENDMENTS" section. Objections to the drawings are not appealable matters and need to be addressed in a separate correspondence. Appellant is required to remove the current discussion relating to the objections to the drawings from the "STATUS OF AMENDMENTS" section, and instead indicate that the objections to the drawings are addressed in a separate correspondence.

However, in response to appellant's request for further clarification regarding black boxes, 37 CFR 1.84 (n) and (o) require, respectively

*(n) Symbols . Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. **Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.***

*(o) Legends . **Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing. They should contain as few words as possible.***

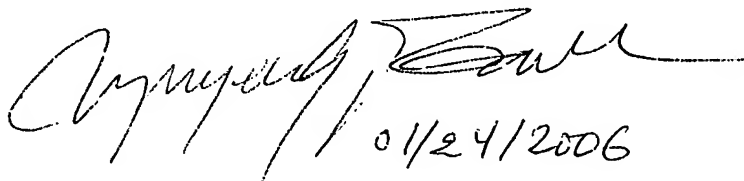
Furthermore, appellant indicated that redlined drawings were enclosed to

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address the examiner's objections with regard to the need for "Prior Art" labels. For appellant information, there were no drawings enclosed. It is however not necessary to enclose corrected drawings with the Appeal Brief - as objections to the drawings need to be addressed in a separate correspondence.

Since it appears that appellant has made a bona-fide attempt to address the objections to the drawings, appellant is given a period of THREE (3) MONTHS from the mailing date of this communication to address the objections to the drawings. Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period of reply will, by statute, cause the application to become ABANDONED (35 USC 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Furthermore, per 37 CFR 41.37(d), if appellant does not file an amended brief within the set time period, or files an amended brief that does not overcome all the reasons for non-compliance stated in the notification, the appeal will stand dismissed.



01/24/2006

TQN
January 24, 2006